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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,043	12/01/2000	Dan Anthony Balogh	4-4-4-18	2578

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LUCENT TECHNOLOGIES INC.
DOCKET ADMINISTRATOR
101 CRAWFORDS CORNER ROAD - ROOM 3J-219
HOLMDEL, NJ 07733

EXAMINER

LY, NGHI H

ART UNIT	PAPER NUMBER
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2686

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/728,043

Applicant(s)

BALOGH ET AL.

Examiner

Nghi H. Ly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Sonetaka (US 6,591,107).

Regarding claim 1, Sonetaka teaches a method of sharing supplemental channel resources (see Abstract, and see column 1, lines “service channel are reserved in advance”) in a system utilizing open assignment (Sonetaka, column 4, lines 44-45, see “*On receipt of the request for assigning radio-signal channel to the subscriber station*”, the moment before the request is received reads on Applicant’s “*open assignment state*”) and open waiting states (Sonetaka, column 4, lines 47-51, “transmits free radio-signal channel”, or column 5, lines 16-17, see “one of free channels in advance reserved”, the moment the free channel is available reads on Applicant’s “*open waiting states*”) for responding to a resource request (see column 4, lines 43-45), the method comprising the steps of: receiving a data notify request indicating a request for supplemental channel resources (see column 4, lines 43-51), and prospectively assigning currently unavailable supplemental channel resources to support a future supplemental channel for a user associated with the received data notify request if the

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data notify request was received during an open assignment state during which the currently unavailable supplemental channel resources are available for prospective assignment (column 4, lines 62-65 and see column 7, line 65 to column 8, line 2).

Regarding claim 2, Sonetaka further teaches determining whether other supplemental channel resources are available if the data notify request was not received during the open assignment state (see column 4, lines 43-51).

Regarding claim 3, Sonetaka further teaches assigning the other supplemental channel resources to the user if the other supplemental channel resources are available (see column 1, lines 54-63).

Regarding claims 4 and 6, Sonetaka further teaches scheduling a next data notify request to be issued for the user in a next preferred user assignment window associated with the other supplemental channel resources, the preferred user assignment window corresponding to a time period during which a current user may be scheduled to issue a data notify request (see column 4, lines 29-34).

Regarding claim 5, Sonetaka further teaches determining whether the currently unavailable supplemental channel resources are in an open waiting state during which the currently unavailable supplemental channel resources are not available for prospective assignment (see column 7, line 65 to column 8, line 2).

Regarding claim 7, Sonetaka further teaches scheduling a next data notify request for the user to be issued if the currently unavailable supplemental channel resources are not in the open waiting state (see column 8, lines 38-44).

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Regarding claim 8, Sonetaka further teaches determining whether the user is a current user of supplemental channel resources (see column 1, lines 48-53).

Regarding claim 9, Sonetaka further teaches reducing a continuation count for the user if the user is a current user and scheduling when to issue a next data notify request for the user based on the continuation count (see column 4, lines 43-51).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sonetaka (US 6,591,107) in view of Vanderspoo, II et al (US 5,261,118).

Regarding claim 10, Sonetaka teaches the step of prospectively assigning the currently unavailable supplemental channel resources (see Abstract and see column 4, lines 62-65).

Sonetaka does not specifically disclose determining if a first data rate is different from a second data rate, the first data rate being associated with the currently unavailable supplemental channel resources, the second data rate being associated with the future supplemental channel.

Vanderspool teaches determining if a first data rate is different from a second data rate, the first data rate being associated with the currently unavailable supplemental channel resources, the second data rate being associated with the future supplemental channel (see column 10, lines 44-51).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to provide the teaching of Vanderspool into the system of Sonetaka in order to provide time synchronization of data transmissions generated from the transmission stations.

Response to Arguments

5. Applicant's arguments filed 12/02/2004 have been fully considered but they are not persuasive.

On page 5 of Applicant's remarks, Applicant argues that Sonetaka does not disclose nor suggest open assignment nor open waiting states for responding to a resource request as recited in the claim.

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In response, Sonetaka indeed teaches open assignment state (Sonetaka, column 4, lines 44-45, see “*On receipt of the request for assigning radio-signal channel to the subscriber station*”, the moment before the request is received reads on Applicant’s “*open assignment state*”) and open waiting states (Sonetaka, column 4, lines 47-51, see “*transmits free radio-signal channel*”, or column 5, lines 16-17, see “*one of free channels in advance reserved*”, the moment the free channel is available reads on Applicant’s “*open waiting states*”) for responding to a resource request (see column 4, lines 43-45). In addition, Applicant’s attention is directed to the rejection of claim 1 above.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (571) 272-7911. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nghi H. Ly


04/15/05


CHARLES APPIAH
PRIMARY EXAMINER